1	MARY ANN SMITH		
2	Deputy Commissioner SEAN ROONEY		
3	Assistant Chief Counsel  DI AINE A NODI ETT (State Per No. 235612)		
4	BLAINE A. NOBLETT (State Bar No. 235612) Senior Counsel		
5	Department of Financial Protection and Innovation 320 W. 4th Street, Suite 750		
6	Los Angeles, California 90013-2344		
7	(213) 576-1396 (213) 576-7181 (Fax)		
8	Attorneys for Complainant		
9	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION		
10	OF THE STATE OF CALIFORNIA		
11			
12	In the Matter of:	) NMLS LICENSE NO. 389808	
13	THE COMMISSIONER OF FINANCIAL	) CONSENT ORDER	
14	PROTECTION AND INNOVATION,	) )	
15	Complainant,	) )	
16	v.	) )	
17	ISABELL ROBERTA BRODSKY,	) )	
18	Respondent.	) )	
19		) )	
20		) )	
21		) )	
22		) )	
23		) )	
24			
25	This Consent Order (the Consent Order) is entered between the Commissioner of Financial		
26	Protection and Innovation (Commissioner) and Isabell Roberta Brodsky (Brodsky), and is made		
27	with respect to the following facts.		
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## Recitals

I.

A. The Commissioner has jurisdiction over the licensing and regulation of persons engaged in the business of making, servicing, or brokering residential mortgage loans, including mortgage loan originators (MLO or MLOs), under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

- B. Brodsky first applied for a MLO license with the Commissioner on or about December 19, 2018, but voluntarily withdrew her application on February 5, 2019.
- C. On August 6, 2020, Brodsky again applied for a MLO license with the Commissioner. Brodsky's MLO license application lacks the sponsorship of a licensed CFL or CRMLA lender, broker, or loan servicer.
- D. Brodsky's 2020 MLO application disclosed that Brodsky had received a real estate salesperson's license from the California Department of Real Estate (DRE) on October 10, 2003.
- E. On August 16, 2010, the DRE issued Brodsky and her company, National Home Savers Pro, Inc. (National), a desist and refrain order for violations of the Real Estate Law. Specifically, the DRE found that in or about 2009, Brodsky and her company violated Business and Professions Code section 10131, subdivision (d), when they acted in the capacity of a real estate broker without holding a broker's license by offering mortgage loan modification services to consumers and collecting advance fees for those services.
- F. Brodsky's 2020 MLO application also disclosed that on September 30, 2010, the DRE issued Brodsky an accusation to revoke her real estate salesperson's license. The DRE found that Brodsky, through her company, National, collected advance fees from California borrowers in connection with a mortgage loan modification scheme. Brodsky and National did not perform the loan modification services they promised the borrowers that they would perform. And, in one instance, the borrower requested a refund from Brodsky, but never received the refund he requested. The DRE found, among other violations of the Real Estate Law, that Brodsky's conduct was willful, deceptive, and dishonest and a breach of her fiduciary duty to her clients. Brodsky failed to

disclose to clients that she was not licensed as a real estate broker and that she had threatened to undertake the filing of collection lawsuits against clients (even though she was unlicensed, and not qualified to provide the services she proffered). The DRE concluded that Brodsky's actions constituted material misrepresentations and dishonest dealing under the Real Estate Law in violation of Business and Professions Code section 10176, subdivisions (a), (b), (c) and Business and Professions Code section 10177, subdivisions (i), (j), or (g).

- G. Brodsky did not contest the DRE's findings set forth in the accusation.
- H. On November 10, after Brodsky failed to file her notice of defense under Government Code section 11506, the DRE entered its default order against Brodsky in connection with the September 30 accusation.
- I. On April 28, 2011, the DRE issued its decision in connection with the November 10 default order issued to Brodsky. Under its decision, the DRE found good cause to revoke Brodsky's real estate salesperson's license, effective June 1.
- J. On March 27, 2019, Brodsky petitioned the DRE to reinstate her real estate salesperson's license.
- K. The DRE granted Brodsky's petition for reinstatement on January 3, 2020. The DRE specifically found that Brodsky's petition, and the evidence submitted in support of her petition, demonstrated that Brodsky met the requirements to receive an unrestricted real estate salesperson's license and that it would not be against the public interest for her to hold a license issued by the DRE.
  - L. Brodsky is currently licensed by the DRE as a real estate salesperson.
- M. In her 2020 MLO application, Brodsky fully disclosed her disciplinary history before the DRE.
- N Finally, Brodsky's 2020 MLO application showed that Brodsky had filed for Chapter 7 bankruptcy protection in or about 2019. Brodsky disclosed the bankruptcy filing in her MLO license application filed with the Commissioner.
- O. The Commissioner has grounds to deny Brodsky's MLO license application under Financial Code sections 22109.1, subdivision (a)(3) and 50141, subdivision (a)(3), when (1)

Brodsky was the subject of a desist and refrain order for unlicensed real estate broker activity in connection with a mortgage loan modification scheme in which she accepted advance fees; (2) the DRE revoked Brodsky's salesperson's license when it found Brodsky had engaged in unlicensed real estate broker activity and that she had made material misrepresentations and engaged in dishonest dealing with consumers in connection with the unlicensed activity; and (3) Brodsky has filed a personal bankruptcy petition within the past ten years.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein, the parties agree as follows.

## II.

## **Terms**

- 1. <u>Purpose</u>. The Consent Order resolves the issues before the Commissioner described above in the Recitals in a manner that avoids the expense of a hearing and other possible court proceedings, protects consumers, is in the public interest, and is consistent with the purposes and provisions of the CFL and CRMLA.
- Waiver of Hearing Rights. Brodsky acknowledges that the Commissioner is ready, willing, and able to proceed with the filing of an administrative enforcement action on the findings described in the Recitals above. Brodsky hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the CRMLA, the Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of law. By waiving such rights, Brodsky effectively agrees that the Consent Order is final.
- 3. <u>Approval of MLO Application</u>. The Commissioner hereby acknowledges that Brodsky's MLO application is ready to be approved, and the Commissioner hereby agrees to approve it concurrently with the execution of the Consent Order.
- 4. Revocation of License. Brodsky agrees that for the 12-month period from the effective date of the Consent Order, should the Commissioner make a finding that Brodsky has violated or is violating any provision of the CFL, the CRMLA, or any rule, regulation, or law under the jurisdiction of the Commissioner, the state of California, the United States of America, and every state and foreign government (and political subdivision thereof), the Commissioner may, in

his discretion, automatically revoke any license held by or deny any pending application(s) of Brodsky. Brodsky hereby waives any notice and hearing rights to contest such revocation or denial(s) which may be afforded her under the CFL, CRMLA, APA, CCP, or any other provision of law in connection with this matter. Brodsky further expressly waives any requirement for the filing of an accusation under Government Code section 11415.60, subdivision (b), in connection with the Commissioner's revocation of her license under this paragraph.

- 5. Reporting Requirement. During the 12-month period from the effective date of the Consent Order, Brodsky shall report to the Commissioner within 30 days any disciplinary investigations or actions against her by any licensing agencies, any criminal investigations, prosecutions, or convictions against Brodsky, or any civil judgments against Brodsky. Traffic citations shall be excluded.
- 6. <u>Continuing Education</u>. During the next 12 months, Brodsky agrees to take at least 16 hours of continuing education offered by a NMLS approved vendor and agrees to submit proof of compliance to the Commissioner. Brodsky's proof of compliance is due to the Commissioner's agent by December 31, 2021.
- Remedy for Breach. Brodsky acknowledges and agrees that her failure to satisfy the reporting requirement under paragraph 5., above, or her failure to satisfy the continuing education requirement under paragraph 6., above, shall be deemed a breach and cause for the Commissioner to immediately revoke any license held by or deny any pending application(s) of Brodsky. Brodsky hereby waives any notice and hearing rights to contest such revocation or denial(s) which may be afforded her under the CFL, CRMLA, APA, CCP, or any other provision of law in connection with this matter. Brodsky further expressly waives any requirement for the filing of an accusation under Government Code section 11415.60, subdivision (b), in connection with the Commissioner's revocation of her license under this paragraph.
- 8. <u>Full and Final Settlement</u>. The parties hereby acknowledge and agree that the Consent Order is intended to constitute a full, final, and complete resolution of Brodsky's violations of the CFL and CRMLA as identified herein. No further proceedings or actions will be brought by the Commissioner in connection with this matter, or any other provision of law, excepting any

proceeding to enforce compliance with the terms of the Consent Order.

- 9. <u>Information Willfully Withheld</u>. The Consent Order may be revoked, and the Commissioner may pursue any and all remedies under the CFL and CRMLA against Brodsky if the Commissioner discovers Brodsky knowingly or willfully withheld information used for and relied upon in the Consent Order.
- 10. <u>Assisting Other Agencies</u>. The parties further acknowledge and agree that nothing in the Consent Order shall limit the Commissioner's ability to assist any other agency (city, county, state, or federal) with any prosecution, administrative, civil, or criminal, brought by any such agency against Brodsky or any other person based upon any of the activities alleged in this matter or otherwise.
  - 11. <u>Binding</u>. The Consent Order is binding on all heirs, assigns, or successors in interest.
- 12. <u>Independent Legal Advice</u>. Each of the parties represents, warrants, and agrees that he, she, or it has received independent advice from its attorney(s) or representative(s) with respect to the advisability of executing the Consent Order.
- 13. <u>Counterparts</u>. The parties agree that the Consent Order may be executed in one or more separate counterparts, each of which shall be deemed an original when so executed. Such counterparts shall together constitute and be one and the same instrument.
- 14. <u>Waiver, Modification, and Qualified Integration</u>. The waiver of any provision of the Consent Order shall not operate to waive any other provision set forth herein. No waiver, amendment, or modification of the Consent Order shall be valid or binding to any extent unless it is in writing and signed by all the parties affected by it.
- 15. <u>Headings and Governing Law</u>. The headings to the paragraphs of the Consent Order are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. The Consent Order shall be construed and enforced in accordance with and governed by California law.
- 16. <u>Full Integration</u>. Each of the parties represents, warrants, and agrees that in executing the Consent Order he, she, or it has relied solely on the statements set forth herein and the advice of its own counsel. Each of the parties further represents, warrants, and agrees that in executing the

Consent Order he, she, or it has placed no reliance on any statement, representation, or promise of
any other party, or any other person or entity not expressly set forth herein, or upon the failure of
any party or any other person or entity to make any statement, representation, or disclosure of
anything whatsoever. The parties have included this clause (1) to preclude any claim that any party
was in any way fraudulently induced to execute the Consent Order and (2) to preclude the
introduction of parol evidence to vary, interpret, supplement, or contradict the terms of the Consent
Order.

- 17. Presumption from Drafting. In that the parties have had the opportunity to draft, review, and edit the language of the Consent Order, no presumption for or against any party arising out of drafting all or any part of the Consent Order will be applied in any action relating to, connected to, or involving the Consent Order. Accordingly, the parties waive the benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party that caused the uncertainty to exist.
- 18. <u>Voluntary Agreement</u>. Brodsky enters into the Consent Order voluntarily and without coercion and acknowledges that no promises, threats, or assurances have been made by the Commissioner, or any officer or agent thereof, about the Consent Order.
- 19. <u>Effective Date</u>. The Consent Order shall become final and effective when signed by all parties and delivered by the Commissioner's agent via e-mail to Brodsky at isabellabrodsky@yahoo.com.
- 20. <u>Notice</u>. Any notice required under the Consent Order shall be provided to each party at the following addresses:

If to Respondent to: Isabell Roberta Brodsky

6615 Bardonia Street

San Diego, California 92119

If to the Commissioner to: Blaine A. Noblett, Senior Counsel

Department of Financial Protection and Innovation

320 W. 4th Street, Suite 750

Los Angeles, California 90013-2344

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2	necessary capacity and authority to sign and enter into the Consent Order.		
3	IN WITNESS WHEREOF, the parties hereto have approved and executed the Consent Order		
4	on the dates set forth opposite their respective signatures.		
5		MANUEL P. ALVAREZ	
6		Commissioner of Financial Protection and Innovation	
7		imovation	
8	D . 1 1 4 2021	D.	
9	Dated: January 4, 2021	By MARY ANN SMITH	
10		Deputy Commissioner	
11		Enforcement Division	
12		ISABELL ROBERTA BRODSKY, Respondent	
13			
14	Dated: December 19, 2020	By	
15	, , , , , , , , , , , , , , , , , , , ,	ISABELL ROBERTA BRODSKY	
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	-8- CONSENT ORDER		
	CONSENT ORDER		

Authority to Execute. Each signatory hereto covenants that she possesses all